

From: ["Mochrie, Paul" <Paul.Mochrie@vancouver.ca>](mailto:Paul.Mochrie@vancouver.ca)  
To: ["Direct to Mayor and Council - DL"](#)  
CC: ["City Manager's Correspondence Group - DL"](#)  
["Adcock, Jessie" <Jessie.Adcock@vancouver.ca>](mailto:Jessie.Adcock@vancouver.ca)  
["Holm, Kathryn" <Kathryn.Holm@vancouver.ca>](mailto:Kathryn.Holm@vancouver.ca)  
Date: 12/4/2020 5:26:09 PM  
Subject: Memo RTS 13983 – Progress Update on Council Motion: Liquor Distancing & Moratoria  
Attachments: DBL - Liquor - Memo - Progress on Council Motion to review liquor distancing and moratoria.pdf

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Good afternoon Mayor and Council,

In July, Council adopted an amendment to the Fire Bylaw to align Vancouver's occupant load calculation for liquor establishments with the BC Fire Code. The new calculation can benefit businesses as it generally yields a higher occupant load. Subsequently Council directed staff to review policy on distancing requirements and liquor establishment moratoria for opportunities to enable one-time occupant load increases at businesses impacted by these policies.

Staff have completed an initial assessment of distancing requirements and are currently reviewing opportunities to enable occupant load increases the Granville Entertainment District and Downtown Eastside moratorium areas. Stakeholder consultation is being scheduled.

Please see the attached memo for a detailed progress update on this work.

Best,  
Paul

**Paul Mochrie** | Deputy City Manager  
Office of the City Manager | City of Vancouver  
[paul.mochrie@vancouver.ca](mailto:paul.mochrie@vancouver.ca)  
604.873.7666



*The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the Musqueam, Squamish, and Tsleil-Waututh peoples.*

**MEMORANDUM**

December 4, 2020

TO: Mayor and Council

CC: Sadhu Johnston, City Manager  
Paul Mochrie, Deputy City Manager  
Karen Levitt, Deputy City Manager  
Lynda Graves, Administration Services Manager, City Manager's Office  
Gail Pickard, Director (Acting) of Communications  
Rosemary Hagiwara, Acting City Clerk  
Anita Zaenker, Chief of Staff, Mayor's Office  
Neil Monckton, Chief of Staff, Mayor's Office  
Alvin Singh, Communications Director, Mayor's Office  
Kathryn Holm, Chief Licence Inspector, Development, Buildings and Licensing

FROM: Jessie Adcock  
General Manager, Development, Buildings & Licensing

SUBJECT: Progress update on Council Motion to review liquor distancing and moratoria

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**PURPOSE**

On July 7, 2020 Council approved alignment of the Vancouver Fire By-law occupant load with the BC Fire Code. This change can benefit businesses because the new occupant load calculation can yield a higher occupant load (patron capacity).

Council subsequently directed staff to report back on considerations for policy and by-law amendments to enable one-time occupant load increases for Liquor Establishments (pubs and nightclubs) with respect to the existing moratoria and distancing requirements

This Memo provides an update on the progress by staff to date, next steps and a timeline for report back.

**BACKGROUND**

**New Fire By-law Occupant Load Calculations**

Amendments to the Vancouver Fire By-law have aligned Vancouver's occupant load calculations with the BC Fire Code method of calculation. The new calculation factor generally yields a higher occupant load, but the final occupant load for an establishment takes into

consideration site/building specific conditions such as number of available washrooms and exits, which may limit the final occupant load calculation result.

Occupant loads for new businesses will be calculated under the amended Fire By-law; existing businesses can apply to Vancouver Fire and Rescue Services (VFRS) for a recalculation of their occupant load and may qualify for an increase. Applications for an increased occupant load will be reviewed for compliance with the Vancouver Building By-law (VBBL) and upgrades such as structural and washroom capacity may be required in order to qualify for the increased occupant load.

Liquor serving establishments seeking occupant load increases require approval from the Liquor and Cannabis Regulation Branch, a provincial process that requires public notification (See Report to Council, [Alignment of Occupancy Limits between Building and Fire By-Laws](#) ).

### **Distancing**

In 2002, the Liquor Control and Licensing Branch<sup>1</sup> removed its policy related to capacity and location for establishments holding provincial Liquor Primary licences (pubs and nightclubs). This left a policy gap for local government. While the City's Zoning and Development By-law designates where pubs and nightclubs are permitted in the city, it does not generally regulate the size or number of establishments for a given area.<sup>2</sup> In 2005 Council approved six business licence classes for pubs and nightclubs: Liquor Establishment Class 1 – 6 licences distinguish among small, medium and large establishments based on the approved number of occupants; each licence class has a maximum occupant load. Requirements for distance between establishments of the same licence class, were also implemented (Appendix B). These measures manage the density and distribution of pubs and nightclubs throughout the city. Their aim is to maintain the number and size of establishments that is suitable for a neighbourhood or area.

The location and distance requirements consider the relative impact that smaller compared to larger establishments can have on neighbours, for example noise, traffic and parking. They also distinguish between Downtown and Non-Downtown locations. Small establishments (Class 1, up to 65 occupants) generally have a low impact. They can be located relatively close to one another (within 50 meters). The largest venues (Class 5 & 6, 500+ occupants) can sometimes draw patrons from around the region, and can have a high impact on neighbourhoods. Class 5 establishments cannot be located within 500 meters of one another Downtown, and Class 6 not within 750 meters. Downtown supports a higher density of liquor establishments of all classes than Non-Downtown locations.

The City distancing guidelines were developed through a mapping exercise that indicated areas where Liquor Establishments were already concentrated, and areas that could afford opportunities for more Liquor Establishments. In addition to the maps, previous LCLB policy and staff experience played a role in determining where each licence class would best be located, and how far apart each establishment should be from other establishments of the same size. The distancing guidelines and licence classes were shared at two public open houses and overall, there was support for creating these parameters.

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<sup>1</sup> Now named BC Liquor and Cannabis Regulation Branch

<sup>2</sup> Exceptions are HA-1, HA-1A, I-1, I-1A and I-1B zones.

New businesses must find a location that is appropriately distanced from other establishments of its proposed size. Existing businesses that want to increase their occupant load beyond their business licence maximum must apply to amend their business licence to a different class and can do so as long as it does not put them in conflict with distancing requirements. The distancing requirements are found in the July 14, 2005 report to Council, [Liquor License Policy: Liquor Primary Size, Capacity, and Location](#).

### **Moratoria**

Moratoria on new Liquor Establishments and on occupant increases at existing Liquor Establishments are in place for both the DTES and the GED. They were instituted and have been maintained as a means to limit social and public health harms associated with the high concentrations of Liquor Establishments in each area. Both have regularly been reconsidered, most recently as part of the 2017 [Liquor Policy Review](#) which had goals to protect health, safety and community livability; foster creativity, community connection and local economy; and ensure effective and efficient regulatory framework.

A high concentration of Liquor Establishments can present livability challenges for neighbourhood residents. The moratorium in the DTES was first instituted in the Oppenheimer District in 1990, and was expanded to include the whole DTES in 2012 following years of increase in the number of new Liquor Establishments. Those years also saw increased calls for police service on Friday and Saturday nights. VPD data showed that calls to the Gastown area decreased for three years following the 2012 expansion of the moratorium. Following its assessment as part of the 2017 Liquor Policy Review, the DTES moratorium was reaffirmed in the [Liquor Policy for the Downtown Eastside \(2017\)](#) aligning with the goals and principals of the DTES Plan (2014) to make the DTES a more livable, safe and supportive place for all of its diverse residents, and to protect its character and history. In keeping with goal of the Liquor Policy Review to foster creativity, community connection and local economy the policy retained exceptions to the moratorium for live performance based venues.

In the GED the aim of the moratorium since the mid 1990s has been to assist with diversifying the late night entertainment options on Granville Street, attracting a broader patron demographic and reducing late night disorder on weekends. The moratorium applies to Granville Street between W. Georgia and Drake Street. While the moratorium has served to limit the number of Liquor Establishments and occupants, late night violence and public health harms associated with intoxication have been on-going. Since 2006 additional policing has been allocated to Granville Street. VPD Lima Team responds to violence, vandalism, public drinking, public nuisance and general public disturbances, as well as occasional homicides and sex assaults. Many of these incidents are liquor related.<sup>3</sup>

When the GED moratorium was reviewed as part of the 2017 Liquor Policy Review, the GED was found to have higher incidents of arrest for Breach of Peace and cases of public drinking on weekend evenings than any other Downtown area. While some change in business types was taking place, progress toward a wider variety of entertainment businesses, restaurants and shopping, and a broader daytime and nighttime patron demographic was limited. The moratorium was reaffirmed although some new exceptions were introduced: support for liquor licensed live performance venues; relocation of existing seats (occupant load) with no net new

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<sup>3</sup> VPD data (2016) show the majority of breaches of peace, fights and sexual assaults in District 1 (the Downtown peninsula) are concentrated in the GED during just a few hours on weekend evenings.

seats; and creative solutions for net seat reductions in the GED; for example, the consolidation of seats from two venues into one with a net total reduction could be considered. In response to feedback from industry, new patios (without additional occupant load) were allowed in 2018.

## INITIAL ANALYSIS

### New Fire By-law Occupant Load Calculations: Potential Impact on Number of Liquor Seats Citywide

The new Fire By-law occupant load applies to all types of liquor serving establishments and any existing business can apply to VFRS for a recalculation of its occupant load (Table 1). The impact of recalculation using the new occupant load calculation factor of 0.4m<sup>2</sup> will be most pronounced for businesses that have standing room only areas like dance floors because for each square meter of floor space, there is more space for people; whereas in a restaurant dining room for example, each square meter of floor space has a portion occupied by tables and chairs leaving less space for people. Consequently, Liquor Establishments are the business type most likely to see significant occupant load increases under recalculation.

*Table 1 Liquor serving businesses eligible to apply for occupant load recalculation (2020)*

Business Licence Type	Provincial Liquor Licence	# of Businesses	# of Current Liquor seats (occupant load)
Restaurant	Food Primary	1173	161,089
Venue (theatres, concert halls, PNE & Rogers Arena)	Liquor Primary	31	186,581
Liquor Establishment* (pub, nightclub)	Liquor Primary	175	33,782
Manufacturer (brewery, distillery)	Lounge Endorsement	28	1,162
<b>Total</b>	<b>All types</b>	<b>1407</b>	<b>382,614</b>

\*Figures exclude 41 Class 7, Private Club licences with total of 20,000 seats.

The magnitude of occupant increases at liquor serving businesses cannot be forecast. It is unknown how many businesses will apply for recalculation; how many will qualify for an increase and the size of increase each could achieve given potential limiting factors such as requirements for additional exits and washrooms. The Fire By-law was amended in July, 2020; VFRS has not yet received any applications for recalculation.

### Distancing: Assessment of Existing Capacity

Liquor Establishments Class 1 – 5 business licences have maximum seating capacity (occupant load) as a condition of the licence; for Class 6 (more than 950 seats) no maximum is stipulated (Appendix B). Business seeking to increase occupant load beyond their class size must apply to amend their business licence to appropriate class.

Assessment of existing Liquor Establishments finds there is significant capacity to increase occupant loads under their current business licence classes, meaning they can increase

occupant load without having to change licence class, and without running into conflict with distancing requirements.

Among all Liquor Establishments in the city including those located in GED and DTES, 93% have capacity to increase occupant load without changing their licence class; a large number, 41%, have capacity to increase by 50% or more occupants. Only 12 out of 175 Liquor Establishments do not have room to grow meaning that if they qualify for an increase under the Fire By-law recalculation they may not be able to obtain the associated business licence due to distancing conflicts. The City’s distancing requirements do not appear to be a significant limiting factor for businesses seeking to increase occupant load.

*Table 2 Liquor Establishment occupant increase capacity within business licence class size (2020)*

Liquor Establishments Class 1 - 6	Number of Establishments	% of All Establishments
Citywide Total (includes GED & DTES)	175	100%
Liquor Establishments with capacity to increase occupant load	163	93%
Can increase occupant load by more than 50%	71	41%
Can increase occupant load by 30% to 50%	36	21%
Can increase occupant load by 20% to 29%	29	17%
Can increase occupant load by up to 20%	27	15%
Liquor Establishments at Class Maximum and cannot increase occupant load	12	7%

#### Non-Moratoria Area

The vast majority of Liquor Establishments, 125 of 175, are located outside of the moratoria areas. Of these establishments, 93% can increase occupant load without changing their licence class. Forty-four percent can increase capacity by 50% or more without changing their licence class.

*Table 3 Non-Moratoria Liquor Establishment occupant increase capacity within business licence class (2020)*

Liquor Establishments Class 1 - 6	Number of Establishments	Percent
Non-Moratoria Total	125	100%
Liquor Establishments with capacity to increase occupant load	116	93%
Can increase occupant load by more than 50%	55	44%
Can increase occupant load by 30% to 50%	27	22%
Can increase occupant load by 20% to 29%	21	17%
Can increase occupant load by less than 20%	13	10%
Liquor Establishments at Class maximum/cannot increase occupant load	9	7%

#### GED

In the GED, all Liquor Establishments can increase capacity without changing their licence class. Forty percent can increase capacity by 50% or more.

Table 4 GED Liquor Establishment occupant increase capacity within business licence class (2020)

Liquor Establishments Class 1 - 6	Number of Establishments	Percent
GED Total	20	100%
Liquor Establishments with capacity to increase occupant load	20	100%
Can increase occupant load by more than 50%	8	40%
Can increase occupant load by 30% to 50%	5	25%
Can increase occupant load by 20% to 29%	3	15%
Can increase occupant load by less than 20%	4	20%

#### DTES

In the DTES 90% of Liquor Establishments can increase capacity without changing their licence class. Just over a quarter of the establishments can increase capacity by 50% or more.

Table 5 DTES Liquor Establishment occupant increase capacity within business licence class (2020)

Liquor Establishments Class 1 - 6	Number of Establishments	Percent
DTES Total	30	100%
Liquor Establishments with capacity to increase occupant load	27	90%
Can increase occupant load by more than 50%	8	27%
Can increase occupant load by 30% to 50%	4	13%
Can increase occupant load by 20% to 29%	5	17%
Can increase occupant load by less than 20%	10	33%
Liquor Establishments at Class maximum/cannot increase occupant load	3	10%

Table 6 Citywide capacity for occupant load increase within licence class by total number of occupants (2020)

	Number of Liquor Establishments Class 1 - 6	Total Number of Occupants (Current)	Total Increase Capacity by Number of Occupants
Non-Moratoria Areas	125	23,440	8,235 (+35%)
GED	20	4,309	1,536 (+36%)
DTES	30	6,033	1,782 (+30%)
<b>Total</b>	<b>175</b>	<b>33,782</b>	<b>11,553 (+34 %)</b>

Tables 2 to 6 show that there is significant capacity for Liquor Establishments to increase occupant load without changing their licence class, and the distancing requirements do not restrict occupancy load increases in the vast majority of businesses. It must be noted that this capacity does not reflect the reasons some businesses may not be using their full licence class capacity. The most likely reason is a site or building specific constraint; for example, the space is not physically large enough to accommodate the licence class maximum occupant load, or it does not have the necessary exits, washrooms or other structural requirements of the Vancouver Building By-law.

**Initial Finding:** There is significant capacity for the vast majority of Liquor Establishments to increase their occupant load within their current business licence class and the associated occupant load limits. Business seeking recalculation under the amended Fire By-law are more likely to encounter occupant load constraints related to their building or physical space, rather than licence/distancing requirements.

### **Moratoria Review: GED and DTES**

There are currently 20 Liquor Establishments in the GED moratorium area and 30 in the DTES. The conditions of the moratoria in each area mean that Liquor Establishments that might qualify for increased occupant loads under the Fire By-law, are currently prohibited from obtaining them.

The 2017 extension of moratoria in the GED and DTES was strongly supported by Vancouver Coastal Health and the Vancouver Police Department. Data on the social and public health harms associated with alcohol consumption, and on impacts to public safety particularly late night were identified as central reasons for maintaining the moratoria on new Liquor Establishments, and on occupant load increases at existing Liquor Establishments.

Staff are undertaking an interdepartmental review of the GED and DTES moratoria to consider opportunities and risks associated with enabling existing Liquor Establishments to take advantage of the new Fire By-law occupant load calculation. This work includes review of data on late night disorder and consideration of neighbourhood changes such as composition of businesses and late night entertainment options.

### **NEXT STEPS & TIMELINE**

As part of the moratoria review, staff will consult with stakeholders to hear perceptions of opportunities and risks associated with making changes to each of the moratorium areas. A preliminary list of stakeholders includes

- Industry: Hospitality Vancouver Association; individual business owners
- BIAs (DVBIA; Gastown; Chinatown; Strathcona; Hastings Crossing)
- BarWatch; Restaurant Watch
- Good Night Out
- Neighbourhood and Community Associations
- Vancouver Coastal Health
- Liquor and Cannabis Regulation Branch
- Consultation with VPD
  - Review of relevant data on late night call-outs; VPD resource allocation

Staff will report back with recommendations in response to the motion by end of Q1, 2021.



Please do not hesitate to contact me, Jessie Adcock, or Kathryn Holm with any questions.

A handwritten signature in cursive script that reads "Jessie Adcock".

Jessie Adcock  
General Manager, Development, Buildings and Licensing  
604.873.7160 | [jessie.adcock@vancouver.ca](mailto:jessie.adcock@vancouver.ca)

**Council Motion July 7, 2020:**

FINAL MOTION AS APPROVED THAT Council approve, in principle, amendments to the Fire By-law No. 12472 to align Vancouver's occupant load with the occupant load set out in the BC Fire Code;

FURTHER THAT the Director of Legal Services be instructed to bring forward for enactment by Council a By-law to amend the Fire By-law, generally in accordance with Appendix A of the Report entitled "Alignment of Occupancy Limits between Building and Fire By-Laws", dated June 10, 2020, to come into force and take effect upon enactment;

FURTHER THAT Council direct staff to report back with clarification around moratoria on additional liquor seats including updated research and current context for any reconsideration of the policy in consultation with relevant authorities and advocates; and to report back on specific considerations including any necessary policy and by-law amendments to enable existing Liquor Primary establishments and other assembly uses to enable one-time occupancy expansions to align with the occupant load set out in the BC Fire Code, notwithstanding moratoria;

FURTHER THAT consideration be given to use of a one-time blanket approval to the Province for the above be provided by the City in order to assist with the processing of applications;

FURTHER THAT Council direct staff give consideration to potential increases in associated application and permit fees in order to support cost recovery of the processing of such applications;

FURTHER THAT Council direct staff to give consideration to the requirement for use of a registered professional by establishments with respect to establishing what occupant load can be sustained by their current building configuration prior to submitting an occupancy application, in order to help expedite the work and time required by the City Council Meeting Minutes, July 7, 2020 12 to process such applications;

AND FURTHER THAT Council direct staff to review the policy and guidelines on the distancing requirements between liquor primary establishments of the same classification, and explore in conjunction with the Province and Liquor and Cannabis Regulation Branch, the possibility in the immediate future of a one-time increase in distancing requirements between establishments to prevent the costly potential reclassification of those that apply for an increase in occupancy load.

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**APPENDIX B**  
**Liquor Establishment Location and Distancing Guidelines**

Location Requirements as adopted on July 14, 2005, and presented in the report to Council, *Liquor License Policy: Liquor Primary Size, Capacity, and Location*.

*Table 1 City requirements for distancing between Liquor Establishments Class 1 - 6*

<b>Liquor Establishment</b>	<b>Downtown</b>	<b>Non-Downtown</b>
Class 1 – capacity up to 65	Not within 50m of another Class 1	Not within 500m of another Establishment of the same Class
Class 2 – capacity up to 150	Not within 100m of another Establishment of the same Class	
Class 3 – capacity up to 300		
Class 4 – capacity up to 500		
Class 5 – capacity up to 950	Not within 500m of another Class 5	Not within 750m of another Class 5
Class 6 – capacity exceeds 950	Not within 750m of another Class 6	Not within 1km of another Class 6

Additional location requirements:

Class 2 Establishments: In Non-Downtown residential areas, can only be located in designated local shopping areas as identified in Appendix B of 2005 Report: *Liquor License Policy: Liquor Primary Size, Capacity, and Location*.